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MAXWELL KADEL, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No.
)	1:19-cv-272-LCB-LPA
)	
DALE FOLWELL, in his official)	
capacity as State Treasurer of)	
North Carolina, <i>et al.</i> ,)	
)	
Defendants.)	

Pursuant to Federal Rule of Civil Procedure 16(b)(4) and Local Civil Rule 26.1(d), and for the reasons discussed below, Defendants North Carolina State Health Plan for Teachers and State Employees, Plan Administrator Dee Jones, and North Carolina Treasure Dale Folwell (collectively the “Plan Defendants”) move for a second extension of the deadline for completing Dr. Paul McHugh’s expert deposition. All parties Consent to the granting of the requested relief. In support of this motion, Plan Defendants show as follows:

1. The deadline for the close of all Discovery was September 30, 2021. Throughout discovery, the parties worked together to schedule and take more than 20 depositions. Among these, Dr. Paul McHugh's expert witness

deposition began on September 8, 2021. After several hours, the parties agreed to continue the remainder of his deposition to a mutually agreeable date -- September 16, 2021. However, before his deposition could resume, Dr. McHugh suffered a cardiac event, the treatment and recovery from which prevented the resumption of his deposition before September 30, 2021.

3. On September 27, 2021, the Plan Defendants filed a Consent Motion requesting an extension of the time in which to complete Dr. McHugh's deposition, and to take the deposition of Dr. Randi Ettner. (Doc. No. 120). In that pleading, the Plan Defendants represented that "[t]he parties expect that Dr. McHugh's deposition can be completed by October 15, 2021." *Id.* This Court granted the parties consent request, by text Order, the following day, September 28, 2021.

5. The parties have since learned that Dr. McHugh's follow-up treatment and recovery will prevent him (on doctors' orders) from completing his deposition before the previously projected October 15, 2021, extended deadline.

6. The parties now have good reason to believe that Dr. McHugh will be physical able and medically permitted to continue and complete his deposition before the end of October, 2021.

7. This extension request should have no impact on the extended deadlines for the filing of dispositive motions, (text Order of October 6, 2021), nor any impact on the projected start of the trial.

8. All parties have been consulted and give their consent to the granting of this request to extend the deadline to complete Dr. Paul McHugh's deposition until October 31, 2021.

WHEREFORE Plan Defendants respectfully requests that the Court modify the scheduling order to extend the deadline to complete Dr. Paul McHugh's deposition until October 31, 2021. A Proposed Order is attached.

Respectfully submitted, this the 8th day of October, 2021.

/s/ John G. Knepper
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